

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:13-cr-00029-MR-DLH-1**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROCKY JOHNSON,

Defendant.

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ORDER

THIS MATTER is before the Court on the Government's Renewed Motion for Order of Forfeiture [Doc. 39].

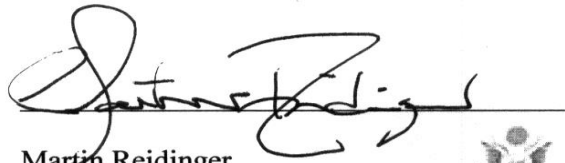
On April 2, 2013, the Defendant was charged in a Bill of Indictment with one count of bank robbery, in violation of 18 U.S.C. § 2113(a). [Doc. 1]. The Bill of Indictment includes a Notice of Forfeiture and Finding of Probable Cause, in which the Grand Jury found that there was probable cause to believe that the following property is subject to forfeiture in this case: "A forfeiture money judgment in the amount of at least \$6,274, such amount constituting the proceeds of the violations set forth in this bill of indictment." [Id. at 2].

The Defendant pled guilty without the benefit of a plea agreement on December 30, 2013. [See Doc. 34]. Thereafter, the Government filed a motion for the entry of a forfeiture money judgment in the amount of \$6,274.00. [Doc. 37]. The Court denied this motion without prejudice because the Government had not presented any evidence from which the Court could make a determination of the amount of money derived from the offense to which the Defendant pled. [Doc. 38].

The Government now renews its motion for an order of forfeiture. [Doc. 39]. In support of its motion, the Government submits the Affidavit of Andrew Romagnuolo, a special agent with the Federal Bureau of Investigation, who presents a factual summary of the Defendant's offense. [Doc. 39-1]. Agent Romagnuolo, however, was not the FBI agent who investigated this case, and he fails to state any basis for his personal knowledge of the facts of the underlying incident. "A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter." Fed. R. Evid. 602. Without a stated basis of the agent's personal knowledge, the Court cannot rely on Agent Romagnuolo's affidavit to make a determination of the amount of money derived from the Defendant's crime. Accordingly, the Government's motion for an order of forfeiture is denied without prejudice.

IT IS, THEREFORE, ORDERED that the Government's Renewed Motion for Order of Forfeiture [Doc. 39] is **DENIED WITHOUT PREJUDICE.**

IT IS SO ORDERED.


Martin Reidinger
United States District Judge

